

Joint Standing Committee on Judiciary

LD 74 **An Act to Provide a Method of Compensation for Personal Injuries Caused by Sidestream Tobacco Smoke** **ONTP**

<u>Sponsor(s)</u> CLOUGH		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 74 proposed to create the Sidestream Smoke Compensation Board for the purpose of assessing claims of persons injured by sidestream smoke. If the board determined that a person was damaged by sidestream smoke, the board would make a monetary award to the person to compensate for damages. Funds for this compensation would come from money awarded to the State in lawsuits against tobacco companies.

LD 76 **An Act To Ease Congestion in the Courts** **ONTP**

<u>Sponsor(s)</u> DAVIS G		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 76 proposed to ease congestion in the courts by eliminating the requirement that executions be issued by the clerks to initiate disclosure proceedings and to perfect liens. Under this bill, attested copies of final judgments of any court in the State, whether state or federal, would be used for these purposes, with the liens subject to the debtor's statutory exemptions. In addition, this bill proposed to repeal the limitation that executions issue within one year of final judgment.

LD 80 **An Act to Change the Child Protective Laws** **ONTP**

<u>Sponsor(s)</u> COURTNEY NASS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 80 proposed to allow state, county and municipal law enforcement authorities to investigate allegations of abuse or neglect of a child in the custody of the Department of Human Services without first notifying the department or obtaining consent from the department.

LD 93 **An Act Regarding the Duties of a Personal Representative** **PUBLIC 378**

<u>Sponsor(s)</u> FLETCHER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-469
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LD 93 proposed to provide that, if a personal representative fails to include property in an inventory of a decedent's property, the Probate Court, in determining the value of that property, may rely on the opinion of qualified appraisers or owners of similar property. The bill proposed to specify that doubt created by the absence of the property must be resolved in favor of persons providing the estimate of highest reasonable value. The bill

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also proposed to place the burden on the personal representative to show that the property should not have been included in the inventory.

Committee Amendment "A" (H-469) proposed to replace the bill. It proposed to provide that, if the personal representative does not file or furnish the required inventory of a decedent's estate and an interested person makes a prima facie case that property that should have been inventoried is now missing, the burden would be on the personal representative to show that the property would properly be excluded from the inventory.

Enacted Law Summary

Public Law 2003, chapter 378 provides that if the personal representative does not file or furnish the required inventory of a decedent's estate and an interested person makes a prima facie case that property that should have been inventoried is now missing, the burden is on the personal representative to show that the property was properly excluded from the inventory.

LD 118 An Act To Clarify the Powers of Guardians ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS SIMPSON	ONTP	

LD 118 proposed to amend the law, under which an adult ward may be admitted on an informal voluntary basis for care and treatment of a mental illness, by deleting the words "and the ward makes no objection to the admission." It was proposed to bring the law into conformity with the law outlining general powers and duties of guardians under the Probate Code.

LD 144 An Act To Limit Pretrial Discovery in Libel Actions ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE	ONTP	

LD 144 proposed to limit pretrial discovery in libel actions under the marine resources laws to the same extent as civil discovery is limited in forfeiture actions brought under the drug forfeiture statutes.

LD 166 An Act to Amend the Maine Probate Code Regarding the Fee for a PUBLIC 14 Copy of a Will Provided to a Beneficiary

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON DOUGLASS	OTP	

LD 166 proposed to provide that a beneficiary in a will must, upon application to the register of probate, be furnished with a copy of the probated will upon payment of a fee of \$1 per page.

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Enacted Law Summary

Public Law 2003, chapter 14 provides that a beneficiary in a will must, upon application to the register of probate, be furnished with a copy of the probated will upon payment of a fee of \$1 per page.

LD 168 **An Act To Allow a Municipality To Dispose of Unclaimed Bicycles
by Means in Addition to Public Auction** **PUBLIC 77**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FISCHER KNEELAND	OTP-AM	H-80

LD 168 proposed to allow a municipality to adopt an ordinance that allows for the donation of abandoned bicycles to a charitable organization rather than sending the proceeds from the sale of the property to the State Treasurer according to abandoned property law.

Committee Amendment "A" (H-80) proposed to replace the language of the bill to authorize a municipality to dispose of unclaimed bicycles in any manner that the legislative body of the municipality decides is appropriate. Current law authorizes sale at a public auction, and the bill would have allowed donations to charitable organizations.

This amendment proposed to provide that the municipality is exempt from the Uniform Unclaimed Property Act with respect to unclaimed bicycles.

Enacted Law Summary

Public Law 2003, chapter 77 allows a municipality to dispose of unclaimed bicycles in any manner that the legislative body of the municipality decides is appropriate. It exempts municipalities from the Uniform Unclaimed Property Act with respect to unclaimed bicycles.

LD 234 **An Act To Create a Uniform Approach to the Determination of
Child Support When Parents Provide Substantially Equal Care for
Children** **PUBLIC 415**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-499
	OTP-AM MIN	

LD 234 proposed to provide a standard for the courts and the parties in cases in which the parents provide substantially equal parenting for the child but have unequal incomes.

Committee Amendment "A" (H-499) was the majority report of the committee. It proposed to add definitions for the terms used in the formula for calculating child support when the parents have unequal incomes but provide substantially equal care for the child. It also proposed to clarify that the child care costs, extraordinary

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medical expenses and health insurance premiums are not included in the calculations, but are shared by the parties in proportion to their incomes.

Committee Amendment "B" (H-500) was the minority report of the committee. It differed from the majority report in that the enhanced basic support obligation, after being divided in proportion to the obligors' gross income, was divided so that each parent would end up with 1/2 of the enhanced amount in that parent's home. The higher income party's payment would be the enhanced support entitlement multiplied by the difference between that party's percentage of income and 50%. The obligation, however, would never be greater than it would be under the basic support obligation. (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 415 provides a standard calculation for determining child support for the courts and the parties in cases in which the parents provide substantially equal parenting for the child but have unequal incomes.

LD 235	An Act Concerning the Treatment of Gross Income in Cases in Which Both Child Support and Spousal Support Are Considered	PUBLIC 123
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<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 235 proposed to clarify that spousal support is not considered as part of the gross income of the recipient of child support in the computation of child support for the children of the marriage in an initial child support order and in any subsequent child support computation on an ensuing motion for children of that marriage.

Enacted Law Summary

Public Law 2003, chapter 123 clarifies that spousal support is not considered as part of the gross income of the recipient of child support in the computation of child support for the children of the marriage in an initial child support order and in any subsequent child support computation on an ensuing motion for children of that marriage.

LD 247	An Act To Increase the Value of Real and Personal Property Exempt from Attachment	PUBLIC 47
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<u>Sponsor(s)</u> SMITH W EDMONDS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-81
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LD 247 proposed to increase the value of a debtor's residence or burial plot that is exempt from attachment in a civil proceeding to \$50,000, and to \$100,000 if the debtor's minor dependent resides with the debtor.

Committee Amendment "A" (H-81) proposed to replace the homestead exemption increases proposed by the bill by smaller increases.

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Under this amendment, \$35,000 of a debtor's residence or burial plot would be exempt from attachment in a civil proceeding. The value of the residence that would be exempt would be \$70,000 if the debtor's minor dependents reside there as well. If the property is owned jointly, the value of property exempt would be the lesser of \$35,000 or the product of the debtor's fractional share of the interest times \$70,000.

This amendment proposed to make similar changes to the homestead exemption for a residence or burial plot of debtors or debtors who have a dependent who is at least 60 years old or physically or mentally disabled. In these cases, the residence or burial exemption from attachment would be increased to \$70,000. If the property is owned jointly, the value of property exempt would be the lesser of \$70,000 or the product of the debtor's fractional share of the interest times \$140,000.

Enacted Law Summary

Public Law 2003, chapter 47 increases the value of a debtor's residence or burial plot that is exempt from attachment in a civil proceeding to \$35,000, and to \$70,000 if the debtor's minor dependent resides with the debtor.

The homestead exemption is \$70,000 if the debtor or the debtor's dependent is at least 60 years old or physically or mentally disabled.

LD 273

An Act To Modify Certain Criminal Appeal Statutes in View of the New Maine Rules of Appellate Procedure

PUBLIC 17

Sponsor(s)

Committee Report
OTP

Amendments Adopted

LD 273 proposed to make changes in criminal appeal statutes in response to the Supreme Judicial Court's adoption of the Maine Rules of Appellate Procedure, effective January 1, 2001, and in response to Public Law 2001, chapter 17, effective September 2001.

Enacted Law Summary

Public Law 2003, chapter 17 makes changes in criminal appeal statutes in response to the Supreme Judicial Court's adoption of the Maine Rules of Appellate Procedure, effective January 1, 2001, and in response to Public Law 2001, chapter 17, effective September 2001. The changes include the hearing procedure and appellate review procedure for a petition contesting extradition, and the appellate review from a final judgment in a post-convictions review proceeding.

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LD 274

An Act to Correct Errors and Inconsistencies in the Laws of Maine

UNSIGNED

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-593
		H-596 NORBERT

LD 274 proposed to correct technical errors and inconsistencies in Maine laws.

Committee Amendment “A” (H-593) proposed to correct technical errors and inconsistencies, as well as to make substantive corrections.

House Amendment “A” to Committee Amendment “A”(H-596) proposed to amend the life safety requirements for residential care facilities with 4 beds.

LD 274, as amended, was presented to the Governor for his signature on June 14, 2003, but had not been signed by the Governor as of July 14, 2003, the date these summaries were finalized for printing.

LD 286

Resolve, Concerning the Titling of Mobile Homes, Boats, All-terrain Vehicles, Snowmobiles and Other Property

RESOLVE 12

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT	OTP-AM	H-141

LD 286 was a concept draft pursuant to Joint Rule 208. It proposed to align state law with many other states' laws by requiring certificates of title for mobile homes, boats, all-terrain vehicles and snowmobiles.

Committee Amendment "A" (H-141) proposed to replace the original concept draft with a resolve requiring that the Secretary of State study the issue of titling mobile homes, boats, all-terrain vehicles, snowmobiles and other similar types of property not already titled in this State. The amendment proposed that the Secretary of State must include interested parties and report back before January 15, 2004 with recommendations. The amendment proposed that the Joint Standing Committee on Judiciary report out legislation to the Second Regular Session of the 121st Legislature.

Enacted Law Summary

Resolve 2003, chapter 12 requires the Secretary of State to study the issue of titling mobile homes, boats, all-terrain vehicles, snowmobiles and other similar types of property not already titled in this State. The Secretary of State shall include interested parties and report back before January 15, 2004 with recommendations. The Joint Standing Committee on Judiciary is authorized to report out legislation to the Second Regular Session of the 121st Legislature.

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LD 299

An Act To Amend the Abortion Reporting Laws To Eliminate Immunity for a Physician Who Reports Data on an Abortion

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GLYNN	ONTP MAJ OTP MIN	

LD 299 proposed to eliminate the provision that provides immunity from criminal liability for an abortion to a physician who reports data on that abortion.

LD 309

An Act To Require Church Officials To Report Suspected Abuse

PUBLIC 210

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL	OTP-AM	H-197

LD 309 proposed to amend the child and adult protective laws to require officials of a church or other religious institution or association to report the suspected abuse, neglect or exploitation.

LD 309 also proposed to add clergy to the list of mandated reporters of adult abuse, neglect or exploitation.

Committee Amendment "A" (H-197) proposed to revise the bill to include as a mandatory reporter any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution. Such a person would be required to report if that person obtains the information of suspected abuse, neglect or exploitation while acting in that administrative capacity. The obligation would apply regardless of whether the person receives compensation.

Enacted Law Summary

Public Law 2003, chapter 210 amends the adult protective and child protective laws to require certain persons affiliated with a church or other religious institution to report suspected abuse, neglect or exploitation. It also adds clergy to the list of mandated reporters of adult abuse, neglect or exploitation.

LD 328

An Act to Increase Courthouse Security

PUBLIC 400

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING BUNKER	OTP-AM	S-215

LD 328 was a concept draft pursuant to Joint Rule 208. It proposed to increase courthouse security.

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Committee Amendment "A" (S-215) proposed to replace the bill. It proposed to provide training requirements for court security officers. Current law authorizes the State Court Administrator to employ court security officers who have valid certification as law enforcement officers as well as specific training in court security functions.

This amendment proposed to define "court security officer" in the context of law enforcement training.

This amendment proposed to require the Maine Criminal Justice Academy to establish certification standards and a training program for court security officers.

Enacted Law Summary

Public Law 2003, chapter 400 provides training requirements for court security officers, defines "court security officer" in the context of law enforcement training, and requires the Maine Criminal Justice Academy to establish certification standards and a training program for court security officers. The program must include 100 hours of preservice training for law enforcement officers, a 40-hour training course on court security and continuing education requirements to maintain certification. Completion of basic law enforcement training satisfies the preservice training requirement.

LD 340

**An Act To Amend Certain Aspects of Post-conviction Review
Procedure**

PUBLIC 29

Sponsor(s)

Committee Report

Amendments Adopted

OTP

H-28 TWOMEY

LD 340 proposed to amend the laws with regard to post-conviction review.

House Amendment "A" (H-28) was offered on behalf of the Committee on Engrossed Bills to correct a technical error in the bill.

Enacted Law Summary

Public Law 2003, chapter 29 amends the laws concerning post-conviction review.

It broadens the definition of "assigned justice" to include a judge of the District Court who has been given authorization to sit in the Superior Court on post-conviction review cases; allows a judge of the District Court who has been given authorization to sit in the Superior Court on post-conviction review cases to exercise the same jurisdiction as the Superior Court Justice relative to post-conviction review proceedings; replaces a reference to the Attorney General with a reference to the prosecutorial office that earlier represented the State in the underlying criminal or juvenile proceeding; provides that representation of the respondent can be either the office of the Attorney General or the office of a district attorney; and repeals the requirement that the procedure for the assignment of a post-conviction review case be addressed pursuant to an administrative order by the Chief Justice of the Supreme Judicial Court. With its repeal, the assignment of petitions for post-conviction review becomes a matter to be addressed by the Supreme Judicial Court by rule.

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LD 349

An Act Regarding Implied Warranties

ONTP

Sponsor(s)
CARPENTER
DUNLAP

Committee Report
ONTP

Amendments Adopted

LD 349 proposed to allow merchants who sell used outdoor power equipment to exclude or modify all implied warranties of fitness when selling those products, provided that those merchants follow the procedures for exclusion or modification of such warranties that exist under current law.

LD 351

An Act To Promote Clarity Regarding Death Certificates

**PUBLIC 74
EMERGENCY**

Sponsor(s)
DAVIS P

Committee Report
OTP-AM

Amendments Adopted
S-24

LD 351 proposed to give a funeral director or other authorized person the option of completing the certificate of death if the cause of death is obtained from the physician or medical examiner or having the physician or medical examiner complete the certificate.

Committee Amendment "A" (S-24) proposed to replace the bill, and proposed to revise current law to allow a death certificate to be completed using legible hand printing, without requiring the hand printing to be in block style.

Enacted Law Summary

Public Law 2003, chapter 74 revises current law to allow a death certificate to be completed using legible hand printing, without requiring the hand printing to be in block style.

Public Law 2003, chapter 74 was enacted as an emergency measure effective April 25, 2003.

LD 367

**An Act To Limit the Duration of a Reversion Clause in the Deed of
a Church**

ONTP

Sponsor(s)
GAGNE-FRIEL
BENNETT R

Committee Report
ONTP

Amendments Adopted

LD 367 proposed to limit the enforceability of a reversion clause in a deed granted to a church or religious society to a period of not more than 20 years after execution of the deed.

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LD 376 **An Act To Encourage Lawful Investigations of Suspected Child Abuse and Neglect** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W MARTIN	ONTP	

LD 376 proposed to clarify that a person involved in a child protection investigation or proceeding is not immune from liability if that person breaches state or federal laws, rules or regulations.

LD 377 **An Act To Responsibly Allocate Costs in Child Protection Proceedings** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W MARTIN	ONTP	

LD 377 proposed to provide that reasonable costs and expenses, as determined by a court, for legal counsel for an indigent parent or custodian in a child protection proceeding must be paid by the Department of Human Services.

LD 407 **An Act To Allow Certain Persons Representing Business Entities To Appear in Court in Forcible Entry and Detainer Cases** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GAGNON	ONTP MAJ OTP MIN	

LD 407 proposed to provide that an officer or authorized employee of a corporation, partnership, sole proprietorship or governmental entity, or a member, manager or authorized employee of a limited liability company who is not an attorney may appear for that organization in an action for forcible entry and detainer.

LD 415 **An Act To Restore Federal Protections to Maine State Employees** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J TREAT	ONTP	

LD 415 proposed to grant the State's consent to be sued by state employees, former employees and employment applicants under the federal Fair Labor Standards Act, Title VII of the Civil Rights Act, the Age Discrimination in Employment Act and federal law authorizing suit for injury or death of a seaman. See also LD 1619, Joint Standing Committee on Labor.

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LD 452

An Act To Increase the Compensation of Jurors

**DIED BETWEEN
BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODWIN	OTP-AM MAJ ONTP MIN	H-142

LD 452 proposed to increase the mileage paid to jurors from 15¢ to 32¢ per mile, and increase the per diem paid to jurors from \$10 to \$55 over a 2-year period beginning July 1, 2004. The bill also proposed to require that payment for jurors come from fines, forfeitures, penalties and fees levied pursuant to a criminal or civil action and require the State Court Administrator to submit legislation implementing this payment requirement.

Committee Amendment "A" (H-142) was the majority report and it proposed to replace the bill. It proposed to increase juror compensation to 32¢ per mile and \$40 per day beginning July 1, 2005.

LD 490

An Act Concerning Citizens' Property Rights

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS GILMAN	ONTP	

LD 490 proposed to require the State to reimburse a property owner for the reduction in value of property caused by a prohibition on rebuilding a structure damaged by fire, storm or other natural catastrophe. Compensation paid to a property owner must be based on the difference between the assessed value before the catastrophe and an appraised value after the catastrophe.

LD 515

An Act To Require Litigation Bonding

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAIGLE KNEELAND	ONTP	

LD 515 was a concept draft pursuant to Joint Rule 208.

LD 515 proposed to require an individual or organization that brings suit against a business or agricultural entity to post a bond if the court action has the effect of delaying or interrupting the business or agricultural activity, including plans to expand. This requirement would apply only if the business or agricultural entity had obtained the proper permits, was in compliance with local ordinances and state laws and was operating in a "best management practices" manner. If the business or agricultural entity prevailed in court, the bond would be used to provide restitution for legal fees, court costs and lost revenue caused by the delay.

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LD 519

**An Act To Provide Expedited Access to Testing for an Individual
Exposed to Body Fluids in the Course of Employment**

PUBLIC 88

<u>Sponsor(s)</u> MAIETTA	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-79
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LD 519 proposed to require testing for blood-borne pathogens when a public safety or health care employee is exposed to the blood or body fluids of another person in the course of employment. It proposed to establish the new procedures as an exception to the general rule requiring judicial consent for a blood-borne pathogen test. The bill proposed to direct the Department of Human Services to adopt rules for testing in the same manner as testing for operating a motor vehicle under the influence of alcohol or drugs. The bill proposed to designate the rules as routine technical rules.

Committee Amendment "A" (H-79) proposed to replace, and require the court to schedule an expedited hearing on the petition for judicial consent to test the source of body fluids associated with a bona fide occupational exposure.

Enacted Law Summary

Public Law 2003, chapter 88 requires the court to schedule an expedited hearing on the petition for judicial consent to test the source of body fluids associated with a bona fide occupational exposure.

LD 523

**Resolve, Requiring the Maine Human Rights Commission To
Report on Complaints Involving Supervisors**

RESOLVE 36

<u>Sponsor(s)</u> SIMPSON CATHCART	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-285
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LD 523 proposed to amend the Maine Human Rights Act to provide that an individual acting as agent of, or in the interest of, an employer is liable in his or her individual capacity for actions that constitute unlawful employment discrimination.

Committee Amendment "A" (H-285) proposed to replace the bill and change the bill to a resolve. It proposed to require the Maine Human Rights Commission to submit a report to the Joint Standing Committee on Judiciary on the number of complaints it has received in which a supervisor commits employment discrimination but the employer avoids liability through the use of an affirmative defense, known as the "Farragher" defense.

Enacted Law Summary

Resolve 2003, chapter 36 requires the Maine Human Rights Commission to report to the Joint Standing Committee on Judiciary the number of complaints it has received in which a supervisor commits employment discrimination, but the employer avoids liability through the use of an affirmative defense. The information will assist the committee in understanding what impact, if any, the affirmative defense provided by the decision in

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Faragher v. City of Boca Raton, 524 U.S. 775 (1998), and used in federal employment discrimination cases, has had on cases in Maine.

LD 537 **An Act To Ensure Access to Expert Testimony** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS NORBERT	ONTP	

LD 537 proposed to amend the Maine Health Security Act to prohibit a person, health care entity or health care provider from impeding the expert testimony of another health care provider unless the testimony concerns a claim involving the person, health care entity or health care provider.

LD 543 **An Act To Promote Corporate Ethics** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENNETT R	ONTP	

LD 543 proposed to create the State Board of Corporate Ethics to make grants to promote better corporate ethics. The board would make grants from a fund created by fines and penalties collected by the State for violations of the Maine Unfair Trade Practices Act, the Revised Maine Securities Act or laws providing penalties for fraudulent conduct.

LD 581 **An Act Requiring Payment of Child Support by Incarcerated Individuals** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN	ONTP	

LD 581 proposed to address the issue of child support after a person commits a crime against the child or the person to whom the child support is paid on behalf of the child.

LD 586 **An Act To Clarify and Improve the Fairness of the Law of Trustee Process** **PUBLIC 149**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP-AM	H-221

LD 586 proposed to make a series of changes to the laws governing trustee process to provide fair treatment of alleged trustees without interfering with the ability of judgment creditors to reach funds to satisfy judgments. To ensure that financial institutions are able to properly identify and promptly act upon trustee process, financial

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institutions would be able to designate with the Secretary of State a specific office for service of process or to agree to accept service made otherwise.

The bill proposed to clarify that an alleged trustee has a reasonable opportunity to act upon the process served upon it, in the same way that a bank has a reasonable time to act upon a stop payment order.

In the event of a default, under LD 586 the trustee would be adjudged trustee for the amount of the principal defendant's property actually in its possession up to the amount of the judgment, not for a greater amount, thus eliminating potential windfalls. In the event that the trustee fails to make disclosure, other statutory remedies, such as assessment of costs and, in a proper case, contempt penalties, remain available. LD 586 proposed to provide that failure to claim or release trusted funds, in the absence of further court process, would give rise to a presumption of abandonment under the Uniform Unclaimed Property Act and subsequent reporting and payment to the Treasurer of State.

Committee Amendment "A" (H-221) proposed to clarify the provision of the bill providing for a voluntary registry where financial institutions may designate a specific office for filing of trustee process. The amendment proposed to authorize the Secretary of State to adopt rules to govern the registry.

The amendment also proposed to add references to include credit unions to the portions of the bill that address financial institutions.

Enacted Law Summary

Public Law 2003, chapter 149 makes a series of changes to the laws governing trustee process to provide fair treatment of alleged trustees without interfering with the ability of judgment creditors to reach funds to satisfy judgments. To ensure that financial institutions, including credit unions, are able to properly identify and promptly act upon trustee process, chapter 149 allows financial institutions to designate with the Secretary of State a specific office for service of process or to agree to accept service made otherwise.

LD 594 **An Act To Establish a Limit on Noneconomic Damages in Medical Malpractice Actions** **ONTP**

<u>Sponsor(s)</u> TURNER MARRACHE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 594 proposed to set a limit of \$250,000 on non-economic damages in medical liability actions. Under this bill, a plaintiff would still be entitled to the full economic loss, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and any other verifiable monetary losses.

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LD 629

An Act To Increase the Collection of Child Support

PUBLIC 224

<u>Sponsor(s)</u> SIMPSON PENDLETON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-194
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LD 629 proposed to require the reporting of the hiring of independent contractors to the Department of Human Services in order to locate people who should be paying child support and to verify their ability to pay. Those required to report would be the State and any employer who contracts with the State. All employers are currently required to report their new employees; this bill proposed to extend the reporting to some independent contractors whose hiring would otherwise not be reported to the Department of Human Services.

Committee Amendment "A" (H-194) proposed to clarify that the State is required to report, in the same manner as the State is required to report information about newly hired employees, the information concerning persons who work for the State under contract. Similarly, contractors with the State and their subcontractors must report the information for independent contractors. In these situations, the date of birth of the contractor or subcontractor is not required to be reported. In addition, the contractor's or subcontractor's taxpayer identification number may be substituted for the contractor's or subcontractor's social security number.

Enacted Law Summary

Public Law 2003, chapter 224 requires the reporting of the hiring of independent contractors to the Department of Human Services in order to locate people who should be paying child support and to verify their ability to pay. Those required to report are the State, any employer who contracts with the State, and their subcontractors.

LD 657

An Act To Repeal the Forest Products Antitrust Exemption

PUBLIC 46

<u>Sponsor(s)</u> SMITH W MARTIN	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 657 proposed to repeal the antitrust exemption for marketing, producing or trucking pulpwood or saw logs.

Enacted Law Summary

Under current law contracts and trusts formed for the sole purpose of manufacturing, producing, refining or mining a product may constitute an illegal restraint of trade or conspiracy. Current law exempts from these provisions associations organized for the sole purpose of marketing, producing or trucking pulpwood or saw logs. Public Law 2003, chapter 46 repeals those provisions.

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LD 675

An Act To Allow Copies of E-9-1-1 Tapes To Be Admitted into Evidence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	ONTP	

LD 675 proposed to allow copies of audio recordings of E-9-1-1 calls to be admitted into evidence if properly authenticated.

LD 701

An Act Regarding the Suspension of Licenses for Failure To Pay a Fine

PUBLIC 193

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J WOODCOCK	OTP-AM	H-128

Under current law, if a defendant in a civil or criminal adjudication fails to pay a fine or any other costs or fees assessed or imposed against the defendant, including appointed counsel fees and restitution, the court may fine the defendant in civil contempt and suspend any license, certification, registration, permit, approval or other similar document evidencing the granting of authority to hunt, fish or trap or to engage in a profession, occupation, business or industry issued by the State to the defendant.

LD 701 proposed to expand current law to allow the court to suspend the right of the defendant to apply for a license or permit. LD 701 proposed to limit the amount of the fine that may be imposed for civil contempt to \$500 and specify the manner in which the notice of suspension must be provided to the defendant. A defendant whose professional license has been suspended may have the license reinstated by paying the fine imposed by the court plus a fee of \$35.

Committee Amendment "A" (H-128) proposed to delete from the bill the proposed authority of the court to suspend the right to apply for a license or permit for nonpayment of a court fine or other assessment. It also proposed to delete the requirement that a \$35 reinstatement fee be paid before certain suspended licenses can be reinstated after paying all court fines.

Enacted Law Summary

Public Law 2003, chapter 193 amends current law to allow the court to suspend the defendant's license or permit if the defendant fails to pay a fine or any other costs or fees assessed or imposed against the defendant. It also limits the amount of the fine that may be imposed for civil contempt to \$500 and specifies the manner in which the notice of suspension must be provided to the defendant.

Joint Standing Committee on Judiciary

LD 720

An Act To Protect Health Care Workers Who Report Medical Errors

PUBLIC 306

<u>Sponsor(s)</u> NORBERT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-396
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LD 720 proposed to protect health care workers who report medical errors to their employers, a patient or a public body.

Committee Amendment "A" (H-396) proposed to clarify 2 aspects of the extension of the Whistleblowers' Protection Act to employees of a health care provider, health care practitioner or health care entity. First, the report by the health care worker must be consistent with state and federal privacy laws. Second, the report may be made to the employer, the patient involved or the appropriate authority that licenses, regulates or credentials the employer. The amendment also proposed to require the Department of Labor to include this change in the next printing of the department's regulation of employment poster.

Enacted Law Summary

Public Law 2003, chapter 306 amends the Whistleblowers' Protection Act to include health care workers who report medical errors to their employers, a patient or the licensing or credentialing authority. The report by the health care worker must be consistent with state and federal privacy laws.

LD 731

An Act Regarding Case Management Officers

PUBLIC 39

<u>Sponsor(s)</u> NORBERT		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 731 proposed to authorize family case management officers to hear and dispose of matters involving parental rights and responsibilities and parent-child contact orders.

Enacted Law Summary

Public Law 2003, chapter 39 authorizes family case management officers to hear and dispose of matters involving parental rights and responsibilities and parent-child contact orders when the order amends that portion of a protection from abuse order.

LD 733

An Act To Create the Fully Informed Jury Act

ONTP

<u>Sponsor(s)</u> JOY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 733 proposed to enact the Fully Informed Jury Act. It proposed to apply to all actions in which the defendant has a right to a jury trial and in which the State or a political subdivision of the State is the plaintiff.

Joint Standing Committee on Judiciary

This bill proposed to provide that the right to a trial by jury includes the right to inform the jury about the jury's power to judge the law as well as all the evidence. Failure to provide the defendant with the opportunity to inform the jury would be grounds for a mistrial or a new trial.

LD 736

An Act To Specify Information Required in a Divorce Decree

PUBLIC 18

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP	

LD 736 proposed to clarify that a decree of divorce or an abstract of a decree for divorce involving rights to real property must be filed in the registry of deeds for the county or the district where the real property is located for the decree to have any effect. This bill also proposed to expand the information that is required to be contained in the abstract or decree.

Enacted Law Summary

Public Law 2003, chapter 18 clarifies that a decree of divorce or an abstract of a decree for divorce involving rights to real property must be filed in the registry of deeds for the county or the district where the real property is located for the decree to have any effect. This bill also expands the information that is required to be contained in the abstract or decree.

LD 741

An Act To Expand the Powers and Authority of Case Management Officers in the Family Division

PUBLIC 84

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY	OTP-AM	H-82

LD 741 proposed to make several changes to the law governing the Family Division of the District Court.

It proposed to revise the title of family case management officers to family law magistrates.

LD 741 also proposed to authorize family law magistrates to grant requests for access to confidential child protective records held by the Department of Human Services. Under such a "Clifford order," the family law magistrate could review the records in camera to determine which records, if any, may be inspected.

LD 741 proposed to authorize the family law magistrates to issue habeas corpus writs when a party is incarcerated in order to secure the presence of that party to a proceeding, and to return the party to the place of incarceration after the proceeding.

LD 741 also proposed to give the family law magistrates jurisdiction to hear and issue final orders in divorces covering any issues to which the parties have consented that the family law magistrate decide.

Joint Standing Committee on Judiciary

LD 741 proposed to allow the Chief Judge of the District Court to authorize the family law magistrates to wear robes when presiding over any proceeding. Family law magistrates would be given the power of contempt that judges and justices currently have.

Committee Amendment "A" (H-82) proposed to replace the bill, but retain 3 of the central proposals of the bill:

1. Give the family case management officers the power to issue writs of habeas corpus for the attendance at proceedings by parties that are incarcerated;
2. Give the family case management officers the authority to issue orders to provide access to confidential information in the custody of the Department of Human Services; and
3. Give family case management officers the power to respond to contempt occurring in the presence of the family case management officer, which the family case management officer either saw or heard.

Enacted Law Summary

Public Law 2003, chapter 84 makes several changes to the law governing the Family Division of the District Court.

It gives the family case management officers the power to issue writs of habeas corpus for the attendance at proceedings by parties that are incarcerated.

It gives the family case management officers the authority to issue orders to provide access to confidential information in the custody of the Department of Human Services.

It also gives family case management officers the power to respond to contempt occurring in the presence of the family case management officer, which the family case management officer either saw or heard.

LD 760

An Act To Protect the Rights of Leaseholders and Ensure Their Continued Access to Land

ONTP

Sponsor(s)
CLARK
STANLEY

Committee Report
ONTP

Amendments Adopted

LD 760 proposed to allow a lessee the right of first refusal to continue leasing a parcel of land when the land is transferred to a different owner and the new owner intends to continue leasing the land.

Joint Standing Committee on Judiciary

LD 768

An Act To Improve the Administration of the Baxter Compensation Program

**PUBLIC 352
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM	S-164
BULL		

LD 768 contained recommendations of the Baxter Compensation Authority.

LD 768 proposed to repeal the 15% limitation on administrative expenditure and increase the annual reporting to allow continuing oversight of the administrative budget.

LD 768 proposed to address confidentiality concerns of claimants and their families.

LD 768 also proposed to address the appeal process.

Committee Amendment "A" (S-164) proposed to revise the cap on administrative expenses for the Baxter Compensation Authority by limiting the expenses to \$407,000 per fiscal year, which is the total of the first-year costs estimated by the authority in its report of January 15, 2003, except that the authority would be limited by an overall cap on administrative expenses. Over the course of the operation of the program, the maximum amount of the trust fund that could be used for administrative expenses would be \$1,500,000.

House Amendment "A" (H-362) proposed to require that interest earned on the Governor Baxter School for the Deaf Compensation Fund must be credited to that compensation fund beginning July 1, 2005. (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 352 contains recommendations of the Baxter Compensation Authority.

Chapter 352 requires the Baxter Compensation Authority to include in its annual report to the Governor, the Attorney General and the joint standing committee of the Legislature having jurisdiction over judiciary matters information about the administrative budget and the previous year's expenses. This law repeals the 15% limitation; the annual reporting will allow continuing oversight of the administrative budget. It revises the cap on administrative expenses for the Baxter Compensation Authority by limiting the expenses to \$407,000 per fiscal year, which is the total of the first-year costs estimated by the authority in its report of January 15, 2003, except that the authority is limited by an overall cap on administrative expenses. Over the course of the operation of the program, the maximum amount of the trust fund that can be used for administrative expenses is \$1,500,000.

Chapter 352 addresses confidentiality concerns of claimants and their families. Current law states that once a claim is submitted, the claim becomes a public record. Chapter 352 provides that certain pieces of information become public and allows public oversight of the program.

Chapter 352 also addresses the appeal process. It allows the appeal board to affirm or increase a compensation award, but prohibits a reduction in the amount awarded by the compensation panel. The appeal board may consider records and testimony presented to the compensation panel. It may also accept oral and written arguments from the claimant in support of the claim. If the claimant wants to present new information on appeal, the appeal board will make a determination on whether the new information is appropriate to be considered in

Joint Standing Committee on Judiciary

connection with the claim. If so, then the appeal board must return the claim to the compensation panel and order the compensation panel to reconsider the decision in light of the new information.

Public Law 2003, chapter 352 was enacted as an emergency measure effective May 30, 2003.

LD 770 An Act To Require a Land Survey Prior to Sale, Processing or ONTP Transfer of Any Parcel of Land

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODWIN	ONTP	

LD 770 proposed to require an owner of real property to have a survey of the property done by a licensed land surveyor prior to the sale or transfer of the property. A copy of the survey would be given to the abutters. If a survey of the property was done within 2 years before the sale or transfer, a new survey would not be required if the existing survey still accurately describes the property and the survey was not challenged by a purchaser or an abutter.

LD 779 An Act To Repeal the Anthem Blue Cross Court Agreement of ONTP Disbursement of \$88,000,000

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODWIN	ONTP	

LD 779 proposed to repeal the law that allowed the conversion of the former Blue Cross and Blue Shield of Maine from a nonprofit hospital and medical service organization and public charity to a for-profit stock company. It also proposed to require the approximately \$88,000,000 in assets resulting from the conversion to be turned over to the General Fund by October 1, 2003.

LD 782 An Act To Require the Payment of Certain Costs Incurred by a ONTP Prevailing Party in Court Proceedings by or against Maine Revenue Services

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MUSE	ONTP MAJ	
MAYO	OTP-AM MIN	

LD 782 proposed to allow a taxpayer who disputes a tax owed to the State and who prevails in either an administrative hearing before the Department of Administrative and Financial Services, Bureau of Revenue Services or in the Superior Court or Supreme Judicial Court to be awarded reasonable litigation and administrative costs, including attorney's fees, expert witness fees and court costs. The bill proposed to apply to both individuals and businesses and to all taxes due to the State. This bill was modeled on federal law.

Committee Amendment "A" (H-498) was the minority report of the Joint Standing Committee on Judiciary. It proposed to incorporate a fiscal note. (Not adopted)

Joint Standing Committee on Judiciary

LD 787 **An Act To Limit the Damages Recoverable in Accidents Involving Snowmobile Clubs' Trail-grooming Activities** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P CARR		

LD 787 proposes to limit the liability of a snowmobile club to \$100,000 for damages resulting from an accident incident to the club's trail-grooming activities.

LD 798 **An Act To Amend the Abortion Consent Laws** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GILMAN O'BRIEN J	ONTP MAJ OTP-AM MIN	

LD 798 proposed to amend the laws governing informed consent to abortion to require the attending physician to provide the woman with certain information orally and in writing at least 24 hours prior to performing an abortion. It further proposed to amend these laws to require that this information include the probable gestational age and anatomical development of the fetus at the time of the abortion; the physical and psychological risks associated with abortion and the abortion technique to be performed, in view of the patient's own pregnancy, including risks identified in a pamphlet that the Department of Human Services, Bureau of Health would be required to publish and distribute to doctors; and the name of the physician who would perform the abortion.

Committee Amendment "A" (S-194) was the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill.

It proposed to provide an exception from the required provision of specific information at least 24 hours before an abortion for a medical emergency. The amendment proposed a definition of "medical emergency" that tracks the definition in Pennsylvania law and means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman so as to necessitate the immediate termination of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

The amendment proposed to allow the attending physician to delegate the responsibility to provide the required information to a physician assistant, nurse practitioner, registered nurse, licensed practical nurse or social worker.

The amendment proposed to include in the list of required information the medical risks of carrying the fetus to term. It also proposed to add an appropriation. (Not adopted)

Senate Amendment "A" (S-230) proposed to remove the appropriation section from Committee Amendment "A" and require the Department of Human Services, Bureau of Health to publish the pamphlet required by the committee amendment within existing resources of the bureau. (Not adopted)

Joint Standing Committee on Judiciary

LD 840

An Act To Clarify the Duties of Conservators

PUBLIC 377

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLETCHER	OTP-AM	H-418

LD 840 proposed to amend the Probate Code governing conservators of the estates of minors or disabled persons in the following manner.

1. Current law requires the conservator to file with the court a complete inventory of the estate. This bill proposed to allow the court, in the event that an inventory is not filed or the inventory that is filed is incomplete, to rely on the opinion of an appraiser or owner of similar property, even if the person has not seen the missing property. The burden of proving that the property was not required to be inventoried would be placed on the conservator.
2. Current law allows a party to bring a proceeding for surcharge to determine liability of the conservator for malfeasance committed in the course of administration of the estate. This bill proposed to clarify what constitutes malfeasance or improper management of the estate and allow the court to award damages and costs.

Committee Amendment "A" (H-418) proposed to replace the bill. It proposed to provide that if a conservator fails to file the required inventory of the protected person's estate and an interested person makes a prima facie case that property that should have been inventoried is now missing, the burden is on the conservator to show that the property would properly be excluded from the inventory.

This amendment also proposed to require the conservator to file a supplementary inventory or appraisal if the conservator or court learns that property was omitted from the inventory or that the value or description of property included in the inventory is erroneous or misleading. A similar provision exists in the law governing personal representatives of decedents' estates.

Enacted Law Summary

Public Law 2003, chapter 377 amends the Probate Code governing conservators of the estates of minors or disabled persons in the following manner. It provides that if a conservator fails to file the required inventory of the protected person's estate and an interested person makes a prima facie case that property that should have been inventoried is now missing, the burden is on the conservator to show that the property was properly excluded from the inventory.

Chapter 377 also requires the conservator to file a supplementary inventory or appraisal if the conservator or court learns that property was omitted from the inventory or that the value or description of property included in the inventory is erroneous or misleading. A similar provision exists in the law governing personal representatives of decedents' estates.

Joint Standing Committee on Judiciary

LD 846

An Act To Protect Health Care Practitioners Responding to Public Health Threats

PUBLIC 438

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHIELDS	OTP-AM MAJ	H-435
PENDLETON	ONTP MIN	

LD 846 proposed to provide limited immunity from civil liability for health care practitioners who volunteer their services in support of the State's response to a public health threat, an extreme public health emergency or a disaster.

Committee Amendment "A" (H-435) proposed to replace the bill. It proposed to provide limited immunity from civil liability for health care practitioners and emergency medical services' persons who provide services in response to a public health threat. It proposed to repeal and replace the current law concerning immunity from civil liability for volunteer activities.

Enacted Law Summary

Public Law 2003, chapter 438 provides limited immunity from civil liability for health care practitioners and emergency medical services' persons who provide services in response to a public health threat. It repeals and replaces the current law concerning immunity from civil liability for volunteer activities.

LD 865

Resolve, Directing the Family Law Advisory Commission To Study and Report on the Uniform Parentage Act and Similar Laws and Proposals

RESOLVE 25

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP-AM	H-127

LD 865 proposed to direct the Family Law Advisory Commission to study issues relating to surrogate parenting and gestational agreements and to authorize the commission to introduce legislation based on its findings to the Second Regular Session of the 121st Legislature.

Committee Amendment "A" (H-127) proposed to broaden the study charge to the Family Law Advisory Commission to include the Uniform Parentage Act and related laws and proposals.

Enacted Law Summary

Resolve 2003, chapter 25 directs the Family Law Advisory Commission to study issues relating to surrogate parenting, gestational agreements and the Uniform Parentage Act and related laws and proposals. It authorizes the commission to introduce legislation based on its findings to the Second Regular Session of the 121st Legislature.

Joint Standing Committee on Judiciary

LD 869

**An Act Concerning the Financial Obligations of a Parent Involved
in a Crime against a Child of That Parent**

PUBLIC 216

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN HALL	OTP-AM	H-195

Under current law, when a person's parental rights are terminated, that person's obligation to support the child financially also terminates. LD 869 proposed to authorize a court to require a parent to contribute to the financial support of a child at the time the parent's parental rights are terminated. The amendment proposed that the court may order a lump sum payment if the parent was convicted of a crime against that child prior to the termination of parental rights. The amendment proposed that the court may include the requirement in the termination order. The amendment proposed that the court may direct that the payment be held in trust for the child, or may order any other protections necessary to preserve the payment for the financial support of the child.

Committee Amendment "A" (H-195) proposed to delete the last 2 sentences of the bill, which refer to holding a lump sum payment in trust and to the child support guidelines.

Enacted Law Summary

Public Law 2003, chapter 216 authorizes a court to require a parent to contribute to the financial support of a child at the time the parent's parental rights are terminated.

LD 886

**An Act To Require State Reimbursement When Laws or Rules
Devalue Private Property**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOY STANLEY	ONTP MAJ OTP-AM MIN	

LD 886 proposed to require the State to pay a property owner when state regulations lower the owner's property value by at least 25%.

LD 886 also proposed to require the Legislature and all departments and agencies to review and identify laws and rules that result in the devaluation of property. It proposed that the Legislature notify all property owners of such laws and rules.

Committee Amendment "A" (H-437) was the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill and retain only that portion of the bill that requires the Legislature and all state agencies to review the laws of the State and the rules agencies administer to identify laws and rules that devalue property. By March 1, 2004, the amendment proposed that the Legislature notify all property owners in the State of the laws and rules that have been identified as resulting in the devaluation of property. (Not adopted)

Joint Standing Committee on Judiciary

LD 892

An Act To Prohibit Discrimination in Housing

**DIED IN
CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	ONTP MAJ	
CUMMINGS	OTP-AM MIN	

Current law prohibits unlawful discrimination in the sale, rental, lease or management of housing accommodation. The term "housing accommodation" does not currently include the rental of a one-family unit if one unit is owner-occupied or the rental of 4 or fewer rooms of a one-family dwelling that is owner-occupied. LD 892 proposed to eliminate those exclusions.

Committee Amendment "A" (S-193) was the minority report of the Joint Standing Committee on Judiciary. It proposed to remove the exemption for rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner. (Not adopted)

LD 912

An Act To Protect Children in Protection from Abuse Proceedings

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KETTERER	ONTP	
HATCH PH		

LD 912 proposed to amend the definition of "abuse" for purposes of protection from abuse orders to include threatening a minor's mental or emotional well-being by exposing that minor to the abuse of a family or household member of that minor.

LD 921

An Act To Enact the Uniform Trust Code

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P		

LD 921, which was a concept draft pursuant to Joint Rule 208, proposes to amend the State's trust laws by revising the Uniform Trust Code, as adopted by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association, the ABA Real Property, Probate and Trust Law Section and the AARP, to conform to existing Maine practices and procedures where applicable. The Uniform Trust Code provides a comprehensive model for codifying the law on trusts.

Joint Standing Committee on Judiciary

LD 934

An Act To Allow the Videotaping of the Testimony of Witnesses 13 Years of Age and under in Certain Cases

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCNEIL NASS	ONTP	

LD 934 was modeled on New Hampshire's law concerning videotaping the testimony of a victim or other witness who is 13 years of age or under when the offense being prosecuted is a sexual offense. It proposed to allow the prosecuting attorney or the victim or other witness who is 13 years of age or under to request that the testimony be videotaped. The court would have discretion whether to allow the trial testimony to be videotaped. A victim or other witness who is 13 years of age or under and whose testimony is videotaped would not be required to appear or testify in the trial. The testimony must be videotaped in front of the judge, with the prosecuting attorneys, the defendant and the defendant's attorneys present. The victim or other witness may also have a parent or other appropriate adult present during the testimony.

LD 959

An Act To Require the Chief Medical Examiner To Perform Tests When Public Safety or Health Care Personnel Are Exposed

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAIETTA	ONTP	

LD 959 proposed to require the Chief Medical Examiner to test the body fluids of a deceased person for blood-borne pathogens if a public safety or health care worker experiences an occupational exposure to the deceased person's body fluids. See also LD 519.

LD 961

An Act Clarifying Child Support Obligations

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J	ONTP	

LD 961 proposed to establish that a putative father who proves through testing or otherwise that he is not the father of a child is not responsible to pay child support for that child. See also LD 865.

Joint Standing Committee on Judiciary

LD 971

An Act To Amend the Constitution of the Maine Episcopal Missionary Society

P & S 13

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HALL RECTOR	OTP-AM	S-49

LD 971 proposed to amend the charter of the Maine Episcopal Missionary Society by removing the \$100,000 limit on the value of real or personal estate held by the society.

Committee Amendment "A" (S-49) proposed to add to the bill an amendment to the Private and Special Law of 1875, chapter 11 concerning the membership of the Maine Episcopal Missionary Society. This amendment proposed to provide that the sole member of the Maine Episcopal Missionary Society is the Episcopal Diocese of Maine.

Enacted Law Summary

Private and Special Law 2003, chapter 13 amends the charter of the Maine Episcopal Missionary Society by removing the \$100,000 limit on the value of real or personal estate held by the society. It also amends the Private and Special Law of 1875, chapter 11 concerning the membership of the Maine Episcopal Missionary Society to provide that the sole member of the Maine Episcopal Missionary Society is the Episcopal Diocese of Maine.

LD 986

An Act To Enact the Uniform Interstate Family Support Act Amendments of 1996 and 2001

PUBLIC 436

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	OTP-AM	S-207

LD 986 proposed to incorporate into Maine law the 1996 and 2001 amendments to the Uniform Interstate Family Support Act. Details of the changes were included in the Prefatory Note and the Uniform Comments.

Committee Amendment "A" (S-207) proposed to make additional changes to make Maine's law consistent with the Uniform Interstate Family Support Act Amendments of 1996 and 2001.

Enacted Law Summary

Public Law 2003, chapter 436 incorporates into Maine law the 1996 and 2001 amendments to the Uniform Interstate Family Support Act.

Joint Standing Committee on Judiciary

LD 999 **An Act To Ensure Fairness in Payment of Superior Court Witness Fees by Counties** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE		

LD 999 proposes to require a Superior Court to reimburse an employer from the Law Enforcement Agency Reimbursement Fund a flat fee of \$50 per day or part of a day for any officer employed by that employer who testifies at a pretrial hearing for a Class D or Class E crime.

LD 1029 **An Act To Amend the Laws Governing Private Property on Which a Body Is Buried** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCNEIL SAVAGE	ONTP	

LD 1029 was a concept draft pursuant to Joint Rule 208.

The bill proposed to alter current requirements for recording on deeds the existence of burial plots. It would allow a deed to reflect the presence of a burial lot on the subject property if the person recording the deed has personal knowledge of the fact that a burial lot exists on the property, even if the person didn't personally bury the body. The bill would also exempt from property tax that portion of the property on which the burial lot is located.

LD 1035 **An Act To Protect Reorganized Businesses** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOODY	ONTP MAJ OTP-AM MIN	

LD 1035 proposed to prohibit a secured creditor from foreclosing on real estate or other property used as collateral for at least 180 days after the conclusion of "chapter 11" or "chapter 13" bankruptcy proceedings relating to the creditor under the United States Bankruptcy Code. This delay would allow the business or individual time to stabilize the finances of the person or business.

Committee Amendment "A" (H-222) was the minority report of the Joint Standing Committee on Judiciary. It proposed to limit the extended stay of foreclosure to business and commercial property and intrastate transactions. (Not adopted)

Joint Standing Committee on Judiciary

LD 1037

An Act Regarding District Attorneys' Staff

ONTP

<u>Sponsor(s)</u> BLISS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1037 proposed to provide that the State pay the cost of compensation and benefits for full-time and part-time employees in the offices of the district attorneys.

LD 1039

An Act Concerning Passamaquoddy Indian Territory in Washington County

CARRIED OVER

<u>Sponsor(s)</u> MOORE F		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1039 proposes to extend the date from January 1, 2001 to January 1, 2020, as the deadline by which the Secretary of the Interior of the United States may acquire land in Washington County for the benefit of the Passamaquoddy Tribe.

LD 1072

An Act Regarding Filing and Certification Fees

PUBLIC 383

<u>Sponsor(s)</u> ADAMS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-416
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LD 1072 proposed to amend the Probate Code to increase the fees allowed a register of probate for receiving and entering a petition or application for estates.

Committee Amendment "A" (H-416) proposed to replace the bill. It proposed to provide that the fee for filing a probate petition for an estate valued at more than \$2,000,000 is \$750 plus an additional \$50 for each increment of \$500,000 that the estate's value is greater than \$2,500,000. This would eliminate the need to list each increment of estate value with the appropriate fee and for an amendment to be made if the maximum estate value of \$10,000,000 as proposed in the bill is exceeded.

Enacted Law Summary

Public Law 2003, chapter 383 amends the Probate Code to increase the fees allowed a register of probate for receiving and entering a petition or application for estates.

Joint Standing Committee on Judiciary

LD 1077

Resolve, To Create the Committee To Conduct a Review of the Board of Overseers of the Bar

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOY	ONTP MAJ OTP-AM MIN	

LD 1077 proposed to create the Committee to Conduct a Review of the Board of Overseers of the Bar.

Committee Amendment "A" (H-433) was the minority report of the Joint Standing Committee on Judiciary. It proposed to incorporate a fiscal note. (Not adopted)

LD 1079

Resolve, To Establish the Committee To Study Compliance with Maine's Freedom of Access Laws

RESOLVE 83

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KOFFMAN ROTUNDO	OTP-AM	H-326 H-592 KOFFMAN S-280 GAGNON

This resolve proposed to establish the Committee to Study Compliance with Maine's Freedom of Access Laws, consisting of legislators, municipal officials, media representatives, the Attorney General and members of the public to address issues relating to state and governmental compliance with Maine's freedom of access laws. The study committee would be required to issue a report to the Joint Standing Committee on Judiciary, including findings and recommendations, by December 15, 2003.

Committee Amendment "A" (H-326) proposed to clarify the emergency preamble, expand the membership of the Committee to Study Compliance with Maine's Freedom of Access Laws, expand the duties of the study committee and authorize the study committee to seek and accept outside funding.

House Amendment "A" to Committee Amendment "A" (H-592) proposed to remove the emergency preamble and the emergency clause from the resolve.

Senate Amendment "A" to Committee Amendment "A" (H-280) proposed to forbid the acceptance of funding for the Committee to Study Compliance with Maine's Freedom of Access Laws from any party having a pecuniary or vested interest in the outcome. The amendment also proposed to change the report date to December 3, 2003.

Enacted Law Summary

Resolve 2003, chapter 83 establishes the Committee to Study Compliance with Maine's Freedom of Access Laws, consisting of legislators, municipal and county officials, media representatives, the Attorney General, the Commissioner of Public Safety, members of the public and a representative of privacy interests to address issues relating to state and governmental compliance with Maine's freedom of access laws. The study committee may seek and accept outside funding, except that funding may not come from any party having a pecuniary or vested

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interest in the outcome of the study. The study committee is required to issue a report to the Joint Standing Committee on Judiciary, including findings and recommendations, by December 3, 2003.

LD 1097 **An Act To Release the Records of the Attorney General and the
Maine State Police Regarding the Investigation, Prosecution and
Trial of Dennis Dechaine** **P & S 18**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN PARADIS	OTP	

LD 1097 proposed to exempt certain intelligence and investigative records of the Department of the Attorney General from the operation of Public Law, 1993, chapter 719, section 11 that declared all such records to be confidential. Instead, those records pertaining the unlawful homicide of Sarah Cherry in Bowdoin would become subject to the Maine Revised Statutes, Title 16, section 614, which applies to intelligence and investigative records after July 1, 1995.

Enacted Law Summary

Private and Special Law 2003, chapter 18 exempts certain intelligence and investigative records of the Department of the Attorney General from the operation of Public Law, 1993, chapter 719, section 11 that declared all such records to be confidential. Instead, those records pertaining the unlawful homicide of Sarah Cherry in Bowdoin become subject to the Maine Revised Statutes, Title 16, section 614, which applies to intelligence and investigative records after July 1, 1995.

LD 1101 **An Act To Establish and Enforce Abortion Facility Safety
Requirements** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRESSEY	ONTP MAJ	
SHOREY	OTP-AM MIN	

LD 1101 proposed to require the Department of Human Services to adopt rules providing for the licensing and inspection of surgical facilities and the health and safety of the patients and employees of surgical facilities in which 50% or more of the patients annually served undergo abortions. The bill proposed that the rules be consistent with the most recent United States Supreme Court decisions regarding state regulation of abortions.

Committee Amendment "A" (H-434) was the minority report of the Joint Standing Committee on Judiciary. It proposed to add an appropriations and allocations section. (Not adopted)

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LD 1102

An Act To Protect the Mental Health of Women and Girls

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY B	ONTP MAJ	
GILMAN	OTP MIN	

LD 1102 proposed to provide that a physician who performs an abortion on a minor is responsible for mental health costs related to the abortion if the abortion was performed without parental consent or without a court order providing consent.

LD 1129

An Act To Amend the Laws Governing Abortion Reporting

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS G	ONTP MAJ	
GILMAN	OTP-AM MIN	

LD 1129 proposed to require the full completion of abortion reports that are required for the Department of Human Services and proposed reporting by the department to the Board of Licensure in Medicine for every violation. It proposed to specify certain information that must be completed on the form.

Committee Amendment "A" (H-436) was the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill. It proposed to repeal and replace current law concerning abortion reporting. The amendment proposed to remove from statute the provision that limited the information reported on an abortion to that information requested in the United States Standard Report of Induced Termination of Pregnancy, published by the National Center for Health Statistics. It also proposed to clarify that the name of the physician who performs an abortion may not be released, although the Department of Human Services must make public the names of physicians who do not comply with the reporting requirement. (Not adopted)

LD 1132

An Act To Simplify Calculation of Legal Interest

**PUBLIC 460
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	H-571 MILLS P

LD 1132 proposed to set prejudgment interest rates at 6% and postjudgment interest rates at 10% for all court actions. This bill also proposed to allow the Supreme Judicial Court to review the rates once yearly and change the rates to accurately reflect market rates if interest rates substantially change, roughly keeping the 6/10 ratio of prejudgment interest rates to postjudgment interest rates.

House Amendment "B" (H-571) proposed to incorporate Committee Amendment "A," House Amendment "A" to Committee Amendment "A" and Senate Amendment "B" to Committee Amendment "A" except that it proposed to amend the judicial rates of interest to be based on the one-year United States Treasury bill rate for

Joint Standing Committee on Judiciary

prejudgment interest and post-judgment interest rather than leaving them based on the bank prime loan interest rate.

This amendment proposed to retain the current interest rate for prejudgment interest for complaints filed prior to July 1, 2003, applying the new prejudgment interest rate only to complaints filed on or after July 1, 2003.

This amendment also proposed to add an application section to the bill, to make it apply to judgments entered on or after July 1, 2003.

The amendment also proposed to provide an effective date of July 1, 2003.

Senate Amendment "A" to Committee Amendment "A" (S-253) proposed to apply the change in prejudgment and post-judgment interest rates to complaints filed on or after July 1, 2003. (Not adopted)

Senate Amendment "B" to Committee Amendment "A" (S-254) proposed to exempt judgments in small claims actions from the requirement that the post-judgment rate of interest be stated in the judgment. This amendment also proposed to apply the change in prejudgment and post-judgment interest rates to complaints filed on or after July 1, 2003. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H-488) proposed to specify that in small claims actions, prejudgment interest is not recoverable unless the rate of interest is based on a contract or note. (Not adopted)

Committee Amendment "A" (H-393) proposed to replace the bill and make the bill an emergency to take effect immediately. It proposed to amend the judicial rates of interest to equal the bank prime loan interest rate plus 3% for prejudgment interest and the bank prime loan interest rate plus 6% for post-judgment interest, thus resolving the current uncertainties about the proper methodology for calculating prejudgment and post-judgment interest. In actions involving a contract or note that contains a provision relating to interest, the rate set forth in the contract or note would be the interest rate for prejudgment interest. For post-judgment interest, the rate of interest would be the rate set forth in the note or the bank prime loan interest rate plus 6%, whichever is greater. (Not adopted)

Senate Amendment "A" (S-261) proposed to incorporate Committee Amendment "A," House Amendment "A" to Committee Amendment "A" and Senate Amendment "B" to Committee Amendment "A" except that it proposed to amend the judicial rates of interest to be based on the United States Treasury bill rate for prejudgment interest and post-judgment interest rather than leaving them based on the bank prime loan interest rate.

The amendment also proposed to apply the changes in prejudgment and post-judgment interest rates to complaints filed on or after July 1, 2003. (Not adopted)

House Amendment "A" (H-566) proposed to incorporate Committee Amendment "A," House Amendment "A" to Committee Amendment "A" and Senate Amendment "B" to Committee Amendment "B" except that it proposed to amend the judicial rates of interest to be based on the one-year United States Treasury bill rate for prejudgment interest and post-judgment interest rather than leaving them based on the bank prime loan interest rate.

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This amendment proposed to retain the current interest rate for prejudgment interest for complaints filed prior to July 1, 2003, applying the new prejudgment interest rate only to complaints filed after July 1, 2003.

The amendment also proposed to provide an effective date of July 1, 2003. (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 460 amends the judicial rates of interest to equal the one-year U.S. Treasury bill rate plus 3% for prejudgment interest and the one-year Treasury bill rate plus 6% for post-judgment interest. In actions involving a contract or note that contains a provision relating to interest, the rate set forth in the contract or note is the interest rate for prejudgment interest. For post-judgment interest, the rate of interest is the rate set forth in the note or the Treasury bill rate plus 6%, whichever is greater.

The new prejudgment interest rate applies to complaints filed on or after July 1, 2003. For actions in which prejudgment interest has begun to accrue prior to July 1, 2003, the prejudgment interest rate is 8% if the judgment does not exceed \$30,000. For verdicts over \$30,000, the prejudgment interest rate is the one-year U.S. Treasury bill rate plus 1%.

The new post-judgment interest rate applies to judgments issued on or after July 1, 2003.

Public Law 2003, chapter 460 was enacted as an emergency measure effective July 1, 2003.

LD 1136

An Act To Amend the Maine Business Corporation Act

ONTP

Sponsor(s)
EDER

Committee Report
ONTP

Amendments Adopted

LD 1136 proposed to amend the Maine Business Corporation Act by including as part of the duties of directors the duty to operate the corporation in a manner that fully respects the public interest.

The bill proposed to provide that, after January 1, 2017, actions may be brought against not only the corporation, but individual directors for activities of the corporation that adversely affect the environment, human rights, public health and safety or dignity of corporate employees.

LD 1138

An Act To Enhance the Economic Security of Maine's Families and Children

ONTP

Sponsor(s)
DUDLEY
DAGGETT

Committee Report
ONTP

Amendments Adopted

LD 1138 proposed to ensure that nontraditional families that include domestic partners are afforded the same protections and benefits as traditional families. The current definition of "domestic partner" is used as a model for this bill in the areas of Maine State Retirement System benefits, inheritance as provided in the Probate Code, taxation and workers' compensation and in the Maine Human Rights Act. See also LD 1579.

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LD 1155

An Act To Include Alternates as Regular Jurors

PUBLIC 299

<u>Sponsor(s)</u> MILLS P	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-325
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LD 1155 proposed to eliminate the need for choosing alternate jurors who are dismissed at the end of civil trials. All jurors chosen would participate in the verdict so long as the panel contained at least 7 members. The bill proposed to direct the court to appoint a foreperson to oversee deliberations and to speak for the jury.

Committee Amendment "A" (H-325) proposed to ensure that all jurors who have heard the evidence in a civil trial participate in determining the verdict unless excused for good cause. It proposed to clarify that the court must seat a jury consisting of 8 or 9 jurors. A verdict must be decided by the unanimous vote of at least 3/4 of the jurors participating in the verdict, unless the parties stipulate otherwise. A jury reduced to 6 or fewer members would not be permitted to render a verdict.

This amendment was modeled on the Federal Rules of Civil Procedure, Rule 48. The Maine Rules of Civil Procedure, Rule 48 currently provides that a verdict must have the agreement of at least 3/4 of the jurors.

Enacted Law Summary

Public Law 2003, chapter 299 ensures that all jurors who have heard the evidence in a civil trial participate in determining the verdict unless excused for good cause. It clarifies that the court must seat a jury consisting of 8 or 9 jurors. A verdict must be decided by the unanimous vote of at least 3/4 of the jurors participating in the verdict, unless the parties stipulate otherwise. A jury reduced to 6 or fewer members is not permitted to render a verdict.

LD 1183

An Act Regarding Abandoned Rights-of-way

ONTP

<u>Sponsor(s)</u> HALL	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1183 proposed to remove the provision of law that allows the legislative body of a municipality to vote to have an easement for recreational use over a town or county way that has been discontinued by abandonment because the town or county did not keep that town or county way passable for the use of motor vehicles for a period of 30 or more consecutive years. See also LD 1473.

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LD 1203

An Act Concerning Executive Sessions of Public Bodies

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GLYNN	ONTP	

Current freedom of access laws require an agency or body to record the vote on the motion to go into executive session. LD 1203 proposed to direct that the record of the vote must include the discussion in the executive session.

LD 1211

An Act To Amend the Laws Relating to Medical Certification of the Cause of Death and the Medical Examiner Act and To Create the Maine Elder Death Analysis Review Team

PUBLIC 433

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP-AM MAJ OTP MIN	H-493

LD 1211 proposed to amend the laws concerning death certificates and the Medical Examiner Law.

Committee Amendment "A" (H-493), the majority report, proposed to create the Maine Elder Death Analysis Review Team to examine deaths and serious injuries associated with suspected abuse or neglect of elderly adults and vulnerable adults.

Enacted Law Summary

Public Law 2003, chapter 433 amends the laws concerning medical certification of cause of death that require the certifying physician to be "authorized to practice in the State;" clarifies that the ultimate determination as to whether a reported death constitutes a medical examiner case is to be determined by the Chief Medical Examiner, barring a directive from the Attorney General or district attorney having jurisdiction; adds a new category of death that must be reported but need not be accepted by the Chief Medical examiner as a medical examiner case; and creates the Maine Elder Death Analysis Review Team to examine deaths and serious injuries associated with suspected abuse or neglect of elderly adults and vulnerable adults.

LD 1214

An Act Regarding Confidentiality and Mental Health

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARLEY	ONTP	

LD 1214 proposed to revise and expand the current laws regarding the privilege against disclosure of confidential communications between patients and licensed counseling professionals, such as marriage and family therapists, and between patients and licensed clinical social workers. It proposed to provide a number of exceptions to the privilege, including allowing disclosure: in certain criminal proceedings; when the patient is deceased and the information is needed regarding a will or deed; when reporting is required by law, such as reporting of child

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abuse or elder abuse; and when needed to determine certain matters in a child protection proceeding. The bill also proposed to specify when the privilege is considered to be waived and set forth procedures for courts in handling claims of privilege.

LD 1218 **An Act To Enact the Revised Uniform Arbitration Act** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS G	ONTP	

LD 1218 proposed to replace the Uniform Arbitration Act with the Revised Uniform Arbitration Act, approved by the National Conference of Commissioners on Uniform State Laws in 2000.

LD 1246 **Resolve, Regarding Searches of Curtilage by Certain State Agencies** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	ONTP MAJ	
SAWYER	OTP-AM MIN	

LD 1246 proposed to require the Department of Environmental Protection, the Department of Conservation and the Department of Inland Fisheries and Wildlife to review their policies and procedures governing searches of private property, including curtilage, and to conform those policies and procedures to those followed by the Department of Public Safety, Bureau of State Police.

Committee Amendment "A" (H-489) was the minority report. It proposed to replace the resolve to require the Department of Environmental Protection, the Department of Conservation and the Department of Inland Fisheries and Wildlife to adopt written policies and procedures for searches of private property, including curtilage, that are approved by the Attorney General and that conform to the prohibition on unreasonable searches and seizures in the United States Constitution Amendment IV. It also proposed to require the Executive Department, State Planning Office to include written policies and procedures approved by the Attorney General for searches and seizures in the training that the State Planning Office establishes for municipal code enforcement officers.

This amendment proposed to require the Attorney General to report during the First Regular Session of the 122nd Legislature to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the written policies and procedures required pursuant to this resolve. (Not adopted)

LD 1262 **An Act To Implement the Maine Assistance Program for Lawyers** **PUBLIC 148**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP	

The purpose of LD 1262 was to provide immunity from civil liability for persons or organizations involved with the Maine Assistance Program for Lawyers, which was established by a court order dated September 1, 2002.

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LD 1262 also proposed to provide that all proceedings, communications and records connected with the Maine Assistance Program for Lawyers are confidential.

Enacted Law Summary

Public Law 2003, chapter 148 provides immunity from civil liability for persons or organizations involved with the Maine Assistance Program for Lawyers, which was established by a court order dated September 1, 2002. Public Law 2003, chapter 148 also provides that all proceedings, communications and records connected with the Maine Assistance Program for Lawyers are confidential.

LD 1265 An Act To Allow a Judge to Grant Visitation Rights to a Parent of a Child in Foster Care ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMAS	ONTP	

LD 1265 proposed to give a court discretion to provide continuing contact between a parent and child when the parent's parental rights are terminated if the court finds that visitation with the parent is in the best interests of the child. The bill proposed to allow the court to order that the parent be given notice of adoption proceedings and an opportunity to participate in those proceedings if notice to the parent and the parent's participation are in the best interests of the child.

LD 1275 An Act To Amend the Laws Governing Improvident Transfers of Title PUBLIC 236

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT GILMAN	OTP	

LD 1275 proposed to extend the protections of the laws governing improvident transfers of title to a guaranty made by an elderly dependent person. It also proposed to extend the protections of the laws governing improvident transfers of title to the personal representative of the estate of an elderly dependent person.

Enacted Law Summary

Public Law 2003, chapter 236 extends the protections of the laws governing improvident transfers of title to a guaranty made by an elderly dependent person. It also extends the protections of the laws governing improvident transfers of title to the personal representative of the estate of an elderly dependent person.

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LD 1295

An Act To Enact the Uniform Mediation Act

CARRIED OVER

<u>Sponsor(s)</u> MARTIN		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1295 proposes to enact the Uniform Mediation Act, effective January 1, 2004.

LD 1298

An Act To Penalize a Person Who is Habitually Late Making Child Support Payments

PUBLIC 396

<u>Sponsor(s)</u> MCNEIL DAMON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-476
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LD 1298 proposed to penalize child support obligors who are habitually late making child support payments.

Committee Amendment "A" (H-476) proposed to amend department-specific language concerning license suspension for failure to pay child support. The term "compliance with a court order of support" would be replaced with "compliance with a support order" and the definition would be revised in the laws within the jurisdictions of the Department of Professional and Financial Regulation, the Department of Marine Resources and the Department of Inland Fisheries and Wildlife to be consistent with the new definition in the child support enforcement laws proposed in the bill.

Enacted Law Summary

Public Law 2003, chapter 396 penalizes child support obligors who are habitually late making child support payments. Under current law, an obligor must be at least 60 days late in making child support payments before the Department of Human Services starts proceedings to revoke driver's licenses, recreational licenses and occupational and professional credentials. Chapter 396 authorizes the department to start those proceedings when a child support obligor is only 30 days late in making child support payments if that obligor has been at least 30 days late in making payments at least twice during the past 24 months.

LD 1306

An Act Relating to the Use and Disposal of Personal Information by Certain Commercial, Governmental and Other Entities

ONTP

<u>Sponsor(s)</u> GOODWIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1306 proposed to require all government and private entities to destroy records containing personal information in the entity's custody or control that the entity intends to dispose of or no longer retain, except for transferring legally to another entity, government unit or archive or to the individual to whom the records pertain. This bill proposed to provide legal and equitable remedies for the Attorney General or a person aggrieved by a violation of the provisions of this Act.

Joint Standing Committee on Judiciary

LD 1311

**An Act To Clarify the Filing of Municipal Personal Property Tax
Liens**

PUBLIC 355

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP-AM	H-415

LD 1311 proposed to amend the provisions of law that govern the creation, perfection and effect of tax liens on personal property.

Committee Amendment "A" (H-415) proposed to revise the bill to ensure that filings of personal property tax lien notices will be accepted for filing by the office of the Secretary of State even though these notices will not fully comply with the requirements of the Maine Revised Statutes, Title 11 (the Uniform Commercial Code), Article 9-A. The amendment also proposed to clarify that the filing municipality would have no obligations to secured creditors and lienholders from whom it has not received notice or who have not filed a financing statement in Maine. The amendment further proposed to clarify that all rights of filing municipalities would be governed by Maine law, even where Title 11, Article 9-A might otherwise apply the law of other states. The amendment proposed to reorganize the bill to clarify the dates of the filings to which it is applicable. Finally, the amendment proposed to make the bill, as amended, take effect October 1, 2003.

Enacted Law Summary

Public Law 2003, chapter 355 amends the provisions of law that govern the creation, perfection and effect of tax liens on personal property. It ensures that filings of personal property tax lien notices will be accepted for filing by the office of the Secretary of State even though these notices will not fully comply with the requirements of Article 9-A of the Uniform Commercial Code. It also clarifies that the filing municipality will have no obligations to secured creditors and lienholders from whom it has not received notice or who have not filed a financing statement in Maine. It further clarifies that all rights of filing municipalities will be governed by Maine law, even where Title 11, Article 9-A might otherwise apply the law of other states. Chapter 355 takes effect October 1, 2003.

LD 1335

**An Act To Protect Public School Departments, School Committees
and Superintendents from Certain Suits and Claims**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	ONTP	

LD 1335 proposed to require the Attorney General to provide legal defense without cost to a school administrative unit, school board, school committee or superintendent named in a legal action, or named in a claim not covered by liability insurance, arising from the issue of payment of tuition to a parochial school.

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LD 1342

**An Act To Establish a Right of Entry for Surveyors Performing
Surveying Services**

**PUBLIC 161
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J MAYO	OTP-AM	H-196 S-94 MARTIN

LD 1342 proposed to provide that when performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistant may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

Committee Amendment "A" (H-196) proposed to make 3 changes to the bill concerning reasonable notice, the duty of care owed by the landowner, and compliance with safety rules and regulations.

Senate Amendment "A" (S-94) proposed to add an emergency preamble and emergency clause to the bill.

Enacted Law Summary

Public Law 2003, chapter 161 provides that when performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistant may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

Chapter 161 establishes criteria that satisfy the requirement that reasonable effort be made to notify the landowner whose land the surveyor may need to enter or cross to carry out a survey.

Chapter 161 provides that the duty of care owed by the owner or occupant of the land is the same duty of care owed to a trespasser. This duty of care, established by case law, is the duty to refrain from wantonly, willfully or recklessly causing harm to the surveyor or the surveyor's assistant.

Chapter 161 requires professional land surveyors and their assistants to comply with state and federal safety rules and regulations applicable to the land crossed or entered.

Public Law 2003, chapter 161 was enacted as an emergency measure effective May 15, 2003.

LD 1370

An Act To Enact the Maine Tribal Gaming Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP MAJ OTP-AM MIN	

LD 1370 is a citizen initiated bill. It proposed to allow the Passamaquoddy Tribe and the Penobscot Nation to conduct gaming and wagering at a single site. The legislative body of a municipality in which the site is located must approve the site for the conduct of gaming and wagering. The authority granted to the Passamaquoddy Tribe and the Penobscot Nation to conduct gaming and wagering at a single site would terminate in 20 years,

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unless extended, and may not be amended or repealed without the consent of the Passamaquoddy Tribe and the Penobscot Nation. The gaming and wagering authorized by this initiated bill would be regulated by the Department of Public Safety and a tribal gaming agency formed jointly by the governments of the Passamaquoddy Tribe and the Penobscot Nation.

The tribal gaming operator would be required to pay to the State an annual fee equal to 25% of the gross revenues of video facsimiles operated by the tribal gaming operator. After an allowance for costs resulting from gaming and wagering operations, the annual fee paid to the State would be used for the following purposes:

1. Fifty percent would be deposited in the Local Government Fund established in the Maine Revised Statutes, Title 30-A, section 5681 and distributed in accordance with the provisions of that section for revenue sharing with municipalities, with the intent of providing local property tax relief;
2. Forty percent would be allocated for the program cost portion of general purpose aid to local schools;
3. Five percent would be allocated to the Maine State Grant Program established in Title 20-A, chapter 419-A for grants for students who are pursuing higher education; and
4. Five percent would be allocated to the Finance Authority of Maine to distribute to private, nonprofit organizations that have the principal purpose of providing scholarships to and otherwise enhancing the postsecondary educational opportunities of students in this State enrolled in eligible programs in institutions of higher education in this State.

Committee Amendment "A" (H-535) was offered as a competing measure to the Initiated Bill 1. It proposed to authorize the state gaming agency to develop selection criteria and select and license, through a competitive bid process, a licensed gaming operator to operate a casino in Maine. The selection would have to maximize the benefit of the casino to the people of this State. Part of the proposed selection criteria is the fee that the licensed gaming operator would pay from the gaming revenues. Other criteria would include selection of a site in an area in which there is higher than average unemployment, lower than average wages, a loss of population or workforce because of business closings and proximity to affordable housing. (Not adopted)

This initiated bill will appear as a referendum question on the November ballot.

LD 1376

An Act Regarding Limited Liability Companies

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLARK STANLEY	ONTP	

LD 1376 was a concept draft pursuant to Joint Rule 208.

LD 1376 proposed to limit the use of the limited liability company structure to a business entity that makes a profit of more than \$100,000 per year. It also proposed to limit the business entities that are exempt from payment of the real estate transfer tax.

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LD 1397

**An Act To Amend the Procedure for Maine Human Rights
Commission Hearings**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENNETT P PENDLETON	ONTP	

LD 1397 proposed to require the complainant in a Maine Human Rights Commission action to appear at all fact-finding conferences or the complaint would be dismissed. It also proposed to give the commission additional time to complete its investigation.

LD 1399

**An Act To Allow District Attorneys To Approve Immunity
Requests**

PUBLIC 162

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP	

LD 1399 proposed to change current law by expressly allowing a district attorney as well as the Attorney General to provide the necessary written approval for granting immunity when the criminal proceeding before a court or grand jury, or the juvenile proceeding before a court, is being prosecuted by the office of the district attorney rather than the Office of the Attorney General or by a person not of either office but authorized by law to act as a representative of the State in a criminal proceeding. LD 1399 also proposed to make clerical and gender-specific language changes.

Enacted Law Summary

Public Law 2003, chapter 162 changes current law by expressly allowing a district attorney as well as the Attorney General to provide the necessary written approval to provide immunity when the criminal proceeding before a court or grand jury, or the juvenile proceeding before a court, is being prosecuted by the office of the district attorney rather than the Office of the Attorney General or by a person not of either office but authorized by law to act as a representative of the State in a criminal proceeding.

LD 1404

**An Act Concerning Representation of the State in Disclosure
Hearings**

**PUBLIC 278
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP MAJ ONTP MIN	

LD 1404 proposed to add employees of the Department of the Attorney General to the list of those who may serve civil process and represent the State in District Court in disclosure proceedings, along with the Department

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of Labor, Bureau of Unemployment Compensation and the Department of Administrative and Financial Services, Bureau of Revenue Services employees.

Enacted Law Summary

Public Law 2003, chapter 278 adds non-attorney employees of the Department of the Attorney General to the list of those who may serve civil process and represent the State in District Court in disclosure proceedings, along with the Department of Labor, Bureau of Unemployment Compensation and the Department of Administrative and Financial Services, Bureau of Revenue Services employees.

Public Law 2003, chapter 278 was enacted as an emergency measure effective May 23, 2003.

LD 1419 **An Act To Protect Campers by Making Personal Information Confidential** **PUBLIC 409**

<u>Sponsor(s)</u> BRYANT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-216
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LD 1419 proposed to protect campers by making confidential camper names, other identifying information and reservation dates during the calendar year for which the reservation is made. The purpose of this bill was to prevent situations involving possible domestic and child custody problems and potential unwanted contacts.

Committee Amendment "A" (S-216) proposed to provide that the Department of Conservation, Bureau of Parks and Lands campsite reservation system may disclose the information concerning campers and campsite reservations to law enforcement upon request.

Enacted Law Summary

Public Law 2003, chapter 409 protects campers in state campgrounds by making confidential camper names, other identifying information and reservation dates during the calendar year for which the reservation is made. It provides that the Department of Conservation, Bureau of Parks and Lands campsite reservation system may disclose the information concerning campers and campsite reservations to law enforcement upon request.

LD 1424 **An Act Relating to the Award of Attorneys' Fees and Damages under the Maine Human Rights Act** **PUBLIC 279**

<u>Sponsor(s)</u> NORBERT PENDLETON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-332
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LD 1424 proposed to make clear that if a plaintiff establishes that prior to filing a complaint in court, the plaintiff filed a charge of discrimination with the Maine Human Rights Commission and the commission dismissed the case for any reason, the court may award attorneys' fees and damages if the plaintiff prevails at trial.

Committee Amendment "A" (H-332) proposed to replace the bill. It proposed to authorize a court to award attorneys' fees and damages to a plaintiff who prevails at trial on a discrimination complaint if the plaintiff

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establishes that, prior to filing with the court, the plaintiff filed the charge with the Maine Human Rights Commission and the commission erroneously dismissed the case.

Enacted Law Summary

Public Law 2003, chapter 279 authorizes a court to award attorneys' fees and damages to a plaintiff who prevails at trial on a discrimination complaint if the plaintiff establishes that, prior to filing with the court, the plaintiff filed the charge with the Maine Human Rights Commission and the commission erroneously dismissed the case.

LD 1425

An Act Relating to the Protection of Whistleblowers

PUBLIC 357

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON PENDLETON	OTP-AM	H-395

LD 1425 proposed to provide protection for an employee who is retaliated against because the employee has refused to carry out a directive of the employer that the employee has reasonable cause to believe compels the employee to violate the law. The Law Court has held that the existing statutory language protects only those employees who refuse to carry out a directive that would result in serious injury or death. See Devoid v. Clair Buick Cadillac, Inc., 699 A. 2d 749 (Me. 1996). The bill was intended to correct the problem noted by the Law Court.

Committee Amendment "A" (H-395) proposed to clarify that an employee is protected under the Whistleblowers' Protection Act if the employee, acting in good faith, refuses to carry out a directive that would be a violation of law or rule.

Enacted Law Summary

Public Law 2003, chapter 357 clarifies that an employee is protected under the Whistleblowers' Protection Act if the employee, acting in good faith, refuses to carry out a directive that would be a violation of law or rule.

LD 1454

An Act To Clarify that the Unauthorized Sale of Public Records Is a Crime

PUBLIC 365

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP BRYANT	OTP-AM	H-417

The purpose of LD 1454 was to reduce the illegal market in public records, especially historic public records. This bill proposed to prohibit the sale or transfer of public records, which, according to the Maine Revised Statutes, Title 5, section 92-A, excludes publications and copies or documents intended for distribution.

Committee Amendment "A" (H-417) proposed to clarify that a person may not transfer or sell a record unless authorized by law. "Record" is currently defined as "all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the

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transaction of its official business." The bill as amended would not affect public access to, or receipt of copies of, public records. The bill as amended would not prohibit the sale of copies of public records.

Enacted Law Summary

Public Law 2003, chapter 365 prohibits the sale or transfer of public records, which, according to the Maine Revised Statutes, Title 5, section 92-A, excludes publications and copies or documents intended for distribution.

LD 1473

An Act To Amend the Laws Governing Public Easements

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKEE KNEELAND		

LD 1473 proposes to allow a person who is directly benefited by a public easement to collect funds to maintain that easement and provide that a municipality may only retain a public easement in a discontinued road by stating in the discontinuance order that a public easement is retained.

LD 1479

An Act To Protect Maine Consumers from Hidden Fees and Charges

PUBLIC 339

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRANNIGAN	OTP-AM	H-394

LD 1479 proposed to add "face value" to the abandoned property laws definition section to resolve issues of interpretation. The bill proposed to define "gift obligation." The bill also proposed to clarify the abandonment period of a gift obligation and that the amount abandoned is the face value of the gift obligation. The bill proposed to prohibit the imposition of a fee or charge on a gift obligation unless the fee or charge is contained in a written agreement at the time of purchase of the gift obligation.

Committee Amendment "A" (H-394) proposed to clarify that the imposition of a fee or charge on a gift obligation is prohibited unless the fee or charge is noted on the gift obligation. The amendment proposed that fees and charges must also be in accordance with the Maine Revised Statutes, Title 33, section 1956, which governs dormancy charges.

Enacted Law Summary

Public Law 2003, chapter 339 amends the Unclaimed Property Act to address gift certificates and other gift obligations, such as gift cards. It clarifies the abandonment period of a gift obligation and that the amount abandoned is the face value of the gift obligation. It clarifies that the imposition of a fee or charge on a gift obligation is prohibited unless the fee or charge is noted on the gift obligation. Fees and charges must also be in accordance with the Maine Revised Statutes, Title 33, section 1956, which governs dormancy charges.

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LD 1487

**An Act To Allow Judges' Faxed Signatures in Involuntary
Psychiatric Commitment Proceedings**

PUBLIC 206

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WESTON	OTP	

LD 1487 proposed to make a facsimile endorsement of a judge or justice in an involuntary psychiatric commitment proceeding as effective as the original endorsement.

Enacted Law Summary

Public Law 2003, chapter 206 makes a facsimile endorsement of a judge or justice in an involuntary psychiatric commitment proceeding as effective as the original endorsement.

LD 1511

**An Act To Make Technical Changes to the Laws Concerning
Tobacco Manufacturers**

PUBLIC 435

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT	OTP MAJ	
PENDLETON	ONTP MIN	

LD 1511 proposed to make 3 technical changes in the Maine Revised Statutes, Title 22, chapter 263, subchapter 3, the tobacco manufacturers laws, which is the law the State adopted to ensure payments under the 1998 multistate legal settlement with tobacco companies.

Enacted Law Summary

Public Law 2003, chapter 435 makes 3 technical changes in the Maine Revised Statutes, Title 22, chapter 263, subchapter 3, the tobacco manufacturers laws, which is the law the State adopted to ensure payments under the 1998 multistate legal settlement with tobacco companies. First, it delegates the rule-making authority under the law to the Attorney General. Second, it changes the way allocable share releases from escrow are calculated for tobacco manufacturers who do not participate in the master settlement agreement. Third, it provides that, in the event the new method is found unconstitutional by a court and the statute, without an allocable share provision is found to be unconstitutional, the statute reverts to the form it was in prior to the changes made by this chapter.

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LD 1517 **An Act To Make Necessary Technical Changes Relating to the** **ONTP**
Maine Business Corporation Act and the Maine Professional
Service Corporation Act

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP	

LD 1517 proposed to correct cross-references and make conforming changes necessitated by repeal of Title 13-A and enactment of the new Title 13-C, the "Maine Business Corporation Act" and by repeal of Title 13, chapter 22 and enactment of Title 13, chapter 22-A, the "Maine Professional Service Corporation Act." The new laws were enacted by Public Law 2001, chapter 640. See LD 1539, which incorporates most of LD 1517.

LD 1525 **An Act To Clarify the Freedom of Access Laws as They Pertain to** **CARRIED OVER**
the Penobscot Nation

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LORING		
CATHCART		

LD 1525 proposes to provide that the Freedom of Access laws concerning public proceedings and public records do not apply to the Penobscot Nation. To the extent the holding in Great Northern Paper, Inc. v. Penobscot Nation, 2001 ME 68, is inconsistent with this Act, this bill proposed to overrule it.

This bill was carried over to the Second Regular Session.

LD 1538 **An Act To Clarify the Appointment of Coguardians and** **PUBLIC 323**
Coconservators under the Probate Code

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT	OTP	
PENDLETON		

LD 1538 proposed to clarify that the Probate Court has the authority to appoint coguardians or coconservators under Part 3 and Part 4 of Article 5 of the Probate Code by explicitly stating that this authority exists. This would provide flexibility for the courts and families of incapacitated adults.

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LD 1539

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies, Limited Liability Partnerships and Marks

**PUBLIC 344
EMERGENCY**

Sponsor(s)
NORBERT

Committee Report
OTP-AM

Amendments Adopted
H-419

LD 1539 proposed to make numerous clarifying, technical and conforming changes to the laws governing trademarks and other business marks and governing all types of business entities. Many of the changes are made to conform to the new Maine Business Corporation Act, Title 13-C, which takes effect July 1, 2003.

Committee Amendment "A" (H-419) proposed to make technical corrections to the bill. It also proposed to clarify the application of the new Maine Revised Statutes, Title 13-C, the revised Maine Business Corporation Act, and to clarify that neither Title 13-C nor its predecessor, Title 13-A, is intended to restate, codify or supplant the business judgment rule.

It also proposed to add a new Part D to the bill and correct cross-references and make conforming changes necessitated by enactment of revised versions of the Maine Business Corporation Act and the Maine Professional Services Corporation Act.

Enacted Law Summary

Public Law 2003, chapter 344 makes numerous changes in the laws governing nonprofit corporations, professional service corporations, partnerships, limited liability partnerships, limited liability companies and trademarks and service marks. Many of the changes are made to provide uniformity between those laws and the newly enacted Maine Business Corporation Act, Title 13-C, which takes effect July 1, 2003.

It changes the standard regarding names to conform to the standards adopted in the new Maine Business Corporation Act, including adopting the standard prohibiting the use of a business name if it is not “distinguishable on the record” from the name of an existing business rather than prohibiting use of a name that is “deceptively similar” to an existing name. It adds definitions; describes the use of extrinsic facts in documents; clarifies certificates of existence, certificates of authority and certificates of fact; clarifies public access to Secretary of State databases and fees for sale of publications. It clarifies the duties of the corporate clerk and the process for changing corporate clerks; clarifies certain provisions relating to series of shares; clarifies shareholder voting requirements; establishes a process to reinstate suspended corporations; and changes the time frame to correct a default before revocation of authority from 30 to 60 days.

The law makes technical corrections to clarify the application of the new Maine Revised Statutes, Title 13-C, the revised Maine Business Corporation Act, and clarifies that neither Title 13-C or its predecessor, Title 13-A, is intended to restate, codify or supplant the business judgment rule, since the elements of the business judgment rule and the circumstances for its application are developed by the courts. It also corrects cross-references and makes conforming changes necessitated by enactment of Public Law 2001, chapter 640, which repealed the Maine Revised Statutes, Title 13-A and replaced it with Title 13-C, the "Maine Business Corporation Act" and repealed Title 13, chapter 22 and replaced it with Title 13, chapter 22-A, the "Maine Professional Service Corporation Act."

Public Law 2003, chapter 344 was enacted as an emergency measure effective July 1, 2003.

Joint Standing Committee on Judiciary

LD 1567

**An Act To Implement Recommendations of the MCJUSTIS Policy
Board Concerning the Drafting of Crimes and Civil Violations
Pursuant to Resolve 1997, Chapter 105, as Amended**

PUBLIC 452

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-557

LD 1567 was the report of the Maine Criminal Justice Information System, MCJUSTIS, Policy Board pursuant to Resolve 2001, chapter 45. It proposed to amend statutes to provide that each crime or civil violation has a unique statutory cite.

The bill proposed to make the changes effective July 1, 2004 in order to give district attorneys, the courts and others adequate time to update their charging instruments and computer systems.

Committee Amendment "A" (H-557) proposed to make changes to the bill to avoid conflicts with new laws and to correct errors in the bill.

It proposed to provide that the provisions concerning terminology for civil monetary sanctions take effect 90 days after adjournment of the First Regular Session of the 121st Legislature, while the rest of the bill as amended would take effect July 1, 2004.

This amendment also proposed to add a mandate preamble.

Enacted Law Summary

Public Law 2003, chapter 452 is the report of the Maine Criminal Justice Information System, MCJUSTIS, Policy Board pursuant to Resolve 2001, chapter 45. It amends civil and criminal violations throughout the statutes to provide a unique statutory cite for each violation.

The bill changes references to monetary sanctions authorized by law, including fines, forfeitures, penalties or surcharges imposed by the court for a civil violation, to "fine" unless the sanction is payable to an entity other than the State, in which case the sanction continues to be identified as a civil penalty. A general provision that indicates this change is added to Title 14

The provisions concerning terminology for civil monetary sanctions take effect 90 days after adjournment of the First Regular Session of the 121st Legislature, while the rest of chapter 452 takes effect July 1, 2004.

Joint Standing Committee on Judiciary

LD 1568

**An Act To Protect Plaintiffs and Minor Children in Certain Civil
Protection Order Cases**

PUBLIC 372

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT COLWELL	OTP-AM	S-165

LD 1568 proposed to allow the court, in the most dangerous protection from abuse cases, to issue a temporary order that prohibits the defendant from possessing a firearm or other dangerous weapon.

Committee Amendment "A" (S-165) proposed to clarify the requirement in the bill that the court must provide notice to a plaintiff, before the plaintiff signs a protection from abuse complaint, that making a false statement under oath in a court document is a crime. This amendment proposed to clarify that the court may provide that notice orally or in writing.

Enacted Law Summary

Public Law 2003, chapter 372 allows the court, in the most dangerous protection from abuse cases, to issue a temporary order that prohibits the defendant from possessing a firearm or other dangerous weapon. It incorporates proven indicators of increased risk of death in domestic violence situations to help the court determine when it is appropriate to grant the permitted relief. It also provides the defendant with a prompt hearing and decision on a motion for dissolution or modification. It requires the court to provide notice, orally or in writing, to a plaintiff, before the plaintiff signs a protection from abuse complaint, that making a false statement under oath in a court document is a crime. Finally, chapter 372 requires a defendant to relinquish possession of firearms and specified dangerous weapons if the defendant is prohibited from possession in either a temporary or permanent protection order.

LD 1579

**An Act To Promote the Financial Security of Maine's Families and
Children** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY DAGGETT		

LD 1579 proposes to provide for domestic partners in certain provisions of the Probate Code and in the laws governing the custody of remains of deceased persons.

Joint Standing Committee on Judiciary

LD 1582

**An Act To Protect Critical Homeland Security Information and
Information Technology Infrastructure and Systems**

PUBLIC 392

<u>Sponsor(s)</u> ROTUNDO	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-190
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LD 1582 proposed to add an exception to the definition of "public records" in the freedom of access laws that would protect information concerning the security, access to and integrity of information technology systems, information technology plans related to homeland security and operating procedures of agencies of State Government and local government.

Committee Amendment "A" (S-190) proposed to delete the substantive changes to the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph L proposed in the bill because the current law already covers information technology systems in the context of preventing or preparing for acts of terrorism.

This amendment proposed to change the language for a new category of records and information that are not public records: records or information that describes the architecture, design, access authorization, encryption or security of information technology infrastructure and systems.

Enacted Law Summary

Public Law 2003, chapter 392 adds an exception to the definition of "public records" in the freedom of access laws to protect a new category of records and information that are not public records: records or information that describes the architecture, design, access authorization, encryption or security of information technology infrastructure and systems.

LD 1584

**An Act To Ensure Equity for Active Retired Justices of the
Supreme Judicial Court Who Perform Judicial Service**

PUBLIC 290

<u>Sponsor(s)</u> SHERMAN	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1584 proposed to increase the per diem compensation for an Active Retired Justice of the Supreme Judicial Court to match the per diem given to Active Retired Superior Court Justices and Active Retired Judges.

Enacted Law Summary

Public Law 2003, chapter 290 increases the per diem compensation for an Active Retired Justice of the Supreme Judicial Court to match the per diem given to Active Retired Superior Court Justices and Active Retired Judges.

Joint Standing Committee on Judiciary

LD 1585

Resolve, Regarding Legislative Review of Rules for the Audio Recording of Planned Interviews of Children, a Major Substantive Rule of the Department of Human Services

**RESOLVE 62
EMERGENCY**

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-477

LD 1585 proposed to provide for legislative review of Rules for the Audio Recording of Planned Interviews of Children, a major substantive rule of the Department of Human Services.

Committee Amendment "A" (H-477) proposed to express the Joint Standing Committee on Judiciary's approval of the major substantive rules concerning the audio recording of planned interviews with children with 2 technical corrections to the most recent printed version of the provisionally adopted rules.

Enacted Law Summary

Resolve 2003, chapter 62 provides for legislative review and approval of Rules for the Audio Recording of Planned Interviews of Children, a major substantive rule of the Department of Human Services.

Resolve 2003, chapter 62 was passed as an emergency measure effective June 3, 2003.

LD 1598

An Act To Ensure Access to Intelligence and Investigative Information

PUBLIC 402

Sponsor(s)
MILLS J

Committee Report
OTP-AM

Amendments Adopted
H-475

LD 1598 proposed to specify that, upon request, intelligence and investigative information, including police reports, must be disclosed to a victim of a crime or a person injured in a car accident. This bill also proposed to require investigating agencies to retain their records and reports for 6 years.

Committee Amendment "A" (H-475) proposed to provide that intelligence and investigative records may be disseminated to a victim or the victim's agent or attorney. The dissemination of the records would be subject to reasonable limitations for the same purposes for which dissemination is prohibited under current law.

Enacted Law Summary

Public Law 2003, chapter 402 provides that intelligence and investigative records may be disseminated to a crime victim or the victim's agent or attorney. The dissemination of the records is subject to reasonable limitations for the same purposes for which dissemination is prohibited under current law.

Joint Standing Committee on Judiciary

LD 1606

An Act To Amend the Adult Protective Services Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PENDLETON BRYANT-DESCHENE	ONTP	

LD 1606 proposed to make the reporting requirements under the Adult Protective Services Act individual to the reporter. The bill also proposed to clarify the relationship between the Adult Protective Services Act and other state and local laws regarding confidential or privileged information and specifies types of information the Department of Human Services may receive as part of an investigation or protective proceeding. The bill proposed to replace the term "dependent adult" throughout the Adult Protective Services Act with the term "vulnerable adult."

LD 1630

**Resolve, Approving the 2003 Draft and Arrangement of the
Constitution of Maine Made by the Chief Justice of the Supreme
Judicial Court and Providing for its Publication and Distribution**

**RESOLVE 98
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>

LD 1630 was submitted pursuant to the Constitution of Maine, Article X, Section 6. It proposed to provide for approval by the Legislature of the Constitution of Maine as arranged by the Chief Justice of the Supreme Judicial Court pursuant to the Constitution of Maine, Article X, Section 6.

LD 1630 was not referred to a committee.

Enacted Law Summary

The Legislature's passage of Resolve 2003, chapter 98 constitutes approval of the Constitution of Maine as arranged by the Chief Justice of the Supreme Judicial Court pursuant to the Constitution of Maine, Article X, Section 6. The text of the Constitution of Maine as recodified by the Chief Justice is included in the printed version of LD 1630 as Appendix "A." (LD 1630 was passed without reference to a committee. Once finally passed by the Legislature, it was sent to the Secretary of State pursuant to the Constitution of Maine, Article X, Section 6 rather than being presented to the Governor for his signature.)